

**IN THE UNITED STATES BANKRUPTCY COURT**  
**FOR THE DISTRICT OF IDAHO**

<b>IN RE</b>	)	
	)	<b>Case No. 00-00200</b>
WILLIAM CORONA,	)	
	)	<b>SUMMARY ORDER</b>
	)	<b>RE U.S. TRUSTEE'S</b>
<b>Debtor.</b>	)	<b>MOTION TO DISMISS</b>
_____	)	

Debtor William Corona filed a petition for Chapter 7 relief on January 27, 2000. On March 16, the United States Trustee filed a motion to dismiss the case because it was filed in the wrong venue.<sup>1</sup> Following a hearing on April 11, the matter was taken under advisement.

A bankruptcy case may be commenced in the district in which the debtor is domiciled or has resided, maintains a principal place of business, or maintains principal assets for the greatest portion of the 180 days prior to the filing of the petition. 28 U.S.C. § 1408. Here, during the 180 days preceding the

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<sup>1</sup> Debtor previously filed a case under Chapter 13 in this District on March 10, 1998 (Case No. 98-00597). That case was dismissed on December 27, 1999. The venue issue was not raised in that case.

bankruptcy, and much longer for that matter, Mr. Corona was domiciled and resided in Durkee, Oregon, a small town located near Interstate 84 in Baker County.<sup>2</sup> Thus, under the statute, venue in this District is not proper.

Federal Rule of Bankruptcy Procedure 1014 provides:  
If a petition is filed in an improper district, on timely motion of a party in interest . . . the case may be dismissed or transferred to any other district if the court determines that transfer is in the interest of justice or for the convenience of the parties.

Fed. R. Bankr. P. 1014(a)(2). Rule 1014 leaves a bankruptcy court with but two options when faced with a case filed in the wrong venue: to dismiss the case; or to transfer the case to another district. *In re Thornberry*, 90 I.B.C.R. 129 (Bankr. D. Idaho 1990). *See also In re Petrie*, 142 B.R. 404, 405-06 (Bankr. D. Nevada 1992) (although there is a split of authority, the majority of courts hold that a court cannot retain an improperly venued case over an objection of a party in interest).

In *Petrie*, the court recognized “that on occasion, quirks of geography . . . make it necessary for a case to be heard in the closest court,

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<sup>2</sup> This Court has a long standing agreement with the District of Oregon whereby cases filed in Oregon by residents of Malheur County are transferred to this District for administration. The Court is aware that as a result of this procedure a practice has developed whereby many Malheur County cases are commenced in this District, and venue is not challenged, probably as a matter of practicality. Because Durkee is approximately ten miles outside Malheur County, Debtor can not take advantage of any arguments stemming from this arrangement or practice.

even if that court is in another state.” *In re Petrie*, 142 B.R. at 407. However, the *Petrie* court went on to hold that it is the role of the “home court,” or district in which venue is proper, to determine whether a change of venue is appropriate under 28 U.S.C. § 1412.

Here, Debtor lives and works nearer the bankruptcy court in Boise than Pendleton, Oregon. Even so, the Court can not retain the case. It is the Oregon bankruptcy court that must, in light of the U.S. Trustee’s motion, decide whether this case is most properly administered in Boise.

The Court finds that it would serve no purpose to dismiss the case and require Debtor to refile in Oregon. Accordingly, the Clerk will be directed to transfer this case to the District of Oregon, where Debtor may, if he chooses, request a change of venue.

**IT IS SO ORDERED.**

DATED This 21<sup>st</sup> day of April, 2000.

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JIM D. PAPPAS  
CHIEF U.S. BANKRUPTCY JUDGE

CERTIFICATE OF MAILING

I, the undersigned, hereby certify that I mailed a true copy of the document to which this certificate is attached, to the following named person(s) at the following address(es), on the date shown below:

Jeff Howe, Esq.  
Office of the U.S. Trustee  
P. O. Box 110  
Boise, Idaho 83701

Bob Pangburn, Esq.  
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Lois Murphy  
2404 Bank Drive #312  
Boise, Idaho 83705

CASE NO.: 00-00200

CAMERON S. BURKE, CLERK  
U.S. BANKRUPTCY COURT

DATED:

By \_\_\_\_\_  
Deputy Clerk